

05/23/2003	27	Request to Charge by USA (jw) (Entered: 05/27/2003)
06/02/2003	29	Filed Memo-Endorsement on letter: as to Hector Carvajal, from Carlos Perez Olivo, Atty for the dft, Dated 5/30/03, addressed to: the Honorable Court, Re: a request, for a thirty day continuance of the defendant Carvajal's sentencing. Adjourned to 7/9/03 at 3:00. SO ORDERED. (Signed by Judge Richard M. Berman); (ja) (Entered: 06/06/2003)
06/03/2003	30	TRANSCRIPT of record of proceedings as to Hector Ruiz for dates of 4/24/03, before Judge Richard M. Berman . (pr) (Entered: 06/11/2003)
06/03/2003	31	CORRECTED TRANSCRIPT of record of proceedings as to Hector Carvajal for dates of March 3, 2003, before Judge Richard M. Berman . (dt) (Entered: 06/17/2003)
06/10/2003		Jury selection as to James Duque, William Saenz Duque, Hector Ruiz held. (bw) (Entered: 06/23/2003)
06/10/2003		Voir dire begun as to James Duque (1) count(s) 1s, 1, 2s, 2, William Saenz Duque (2) count(s) 1s, 1, 2s, 2, Hector Ruiz (4) count(s) 1s, 1, 2s, 2, before Judge Berman. AUSA Marc Mukasey present; AUSA Lauren Goldberg present; Don Buchwald present w/deft James Duque; Alex Eismann present w/deft Hector Ruiz; Michael Sporn present w/deft William Duque; Spanish Interpreters Dagoberto Orrantia and Sonia Berah present; Court Reporters Toni Stanley and Steve Greenblum present; Jury selection begins and ends; trial adjourned. (bw) (Entered: 06/23/2003)
06/10/2003		Jury trial as to James Duque, William Saenz Duque, Hector Ruiz begun. (bw) (Entered: 06/23/2003)
06/10/2003		Jury trial as to James Duque, William Saenz Duque, Hector Ruiz held. (bw) (Entered: 06/23/2003)
06/11/2003		Jury trial as to James Duque, William Saenz Duque, Hector Ruiz held. Trial continues. (bw) Modified on 06/23/2003 (Entered: 06/23/2003)
06/12/2003		Jury trial as to James Duque, William Saenz Duque, Hector Ruiz held. Trial continues. (bw) (Entered: 06/23/2003)
06/13/2003		Jury trial as to James Duque, William Saenz Duque, Hector Ruiz held. Trial continues. (bw) (Entered: 06/23/2003)
06/13/2003		Jury trial as to James Duque, William Saenz Duque, Hector Ruiz continued to 6/16/03 for James Duque, for William Saenz Duque, for Hector Ruiz. (bw) (Entered: 06/23/2003)
06/16/2003		Jury trial as to James Duque, William Saenz Duque, Hector Ruiz held. Trial continues. (bw) (Entered: 06/23/2003)
06/17/2003	32	ORDER as to James Duque, William Saenz Duque, Hector Ruiz. It is hereby ORDERED, that the U.S. Marshals and the Bureau of Prisons permit the above-named defts James Duque (#51717-054), William Duque (#50512-053), and Hector Ruiz (#52507-054), to change from

		prison issue uniform to civilian clothes as provided before being produced for each trial day in this matter (by 9:15 a.m.) (Signed on 6/11/03 by Judge Richard M. Berman). [microfilm 6/17/03 12pm] (bw) (Entered: 06/18/2003)
06/17/2003		Jury trial as to James Duque, William Saenz Duque, Hector Ruiz held. Trial continues. (bw) (Entered: 06/23/2003)
06/18/2003		Jury trial as to James Duque, William Saenz Duque, Hector Ruiz held. Trial continues. (bw) (Entered: 06/23/2003)
06/19/2003		Jury trial as to James Duque, William Saenz Duque, Hector Ruiz held. Trial concludes; jury begins deliberation. (bw) (Entered: 06/23/2003)
06/20/2003		Jury trial as to James Duque, William Saenz Duque, Hector Ruiz concluded. Jury deliberation continues; Verdict taken: James Duque acquitted on counts 1 and 2; William Duque guilty on counts 1 and 2; Hector Ruiz guilty on count 1, acquitted on count 2; Court adjourned. (bw) (Entered: 06/23/2003)
06/20/2003		JURY VERDICT as to James Duque. Not Guilty: James Duque (1) count (s) 1s, 2s. (bw) (Entered: 06/23/2003)
06/20/2003		JURY VERDICT as to William Saenz Duque. Guilty: William Saenz Duque (2) count(s) 1s, 2s. (bw) (Entered: 06/23/2003)
06/20/2003		JURY VERDICT as to Hector Ruiz. Guilty: Hector Ruiz (4) count(s) 1s , and Not Guilty: Hector Ruiz (4) count(s) 2s. (bw) (Entered: 06/23/2003)
06/20/2003	33	Trial Minutes and Court Exhibits A-H, as to defts James Duque, William Saenz Duque, Hector Ruiz. [from Chambers] (bw) (Entered: 06/23/2003)
06/20/2003		DISMISSAL of Count(s) on Court or Defendant Motion as to James Duque. Counts Dismissed: James Duque (1) count(s) 1, 2. [confirmed with Chambers.] (bw) (Entered: 06/24/2003)
06/20/2003	34	FILED JUDGMENT OF ACQUITTAL. The defendant James Duque (1) was found not guilty on count(s) 1s, 2s. It is ORDERED that the Defendant is acquitted, discharged and any bond exonerated.; Judgment and Commitment issued to U.S. Marshal. (Signed by Judge Richard M. Berman). [microfilm 6/23/03 12pm] (bw) (Entered: 06/24/2003)
06/23/2003	35	LETTER addressed to Judge Berman from AUSA Marc Mukasey, dated 4/11/03, filed by USA as to deft James Duque Re: submitted in opposition to the pre-trial submissions of James Duque. (bw) (Entered: 06/24/2003)
06/23/2003	36	LETTER addressed to Judge Berman from AUSA Lauren Goldberg/Marc L. Mukasey, dated 5/27/03, filed by USA as to James Duque, William Saenz Duque, Hector Carvajal, Hector Ruiz Re: submitted to requests the modification to the proposed jury instruction regarding venue (Request No. 14). (bw) (Entered: 06/24/2003)

06/23/2003	37	LETTER addressed to Judge Berman from AUSA Marc Mukasey/Lauren Goldberg (not signed by both), dated 6/3/03, filed by USA as to James Duque, William Saenz Duque, Hector Carvajal, Hector Ruiz Re: submitted as a motion in limine in connection with the trial of this matter which is scheduled to begin on 6/10/03. By this motion, the Govt seeks to offer in evidence at the trial the guilty plea allocation of Hector Carvajal, a co-conspirator of the remaining defts. (bw) (Entered: 06/24/2003)
06/23/2003	38	MEMORANDUM OF LAW, dated 6/10/03, by James Duque in support of the admissibility of statements made by co-defendant William Saenz Duque during a proffer session at the U.S. Attorney's Office. (bw) (Entered: 06/24/2003)
06/23/2003	39	LETTER addressed to Judge Berman from Attorney Michael H. Sporn, dated 6/10/03, filed by deft William Saenz Duque Re: submitted to reply to the govt's application regarding William Duque's prior statement made pursuant to a proffer agreement. (bw) (Entered: 06/24/2003)
06/23/2003	40	LETTER addressed to Judge Berman from Attorney Don D. Buchwald, dated 6/10/03, filed by deft James Duque Re: submitted in regard to the Judge's overruling defense objection to the Govt's introduction into evidence of the 3/3/03 guilty plea of Hector Carvajal. (bw) (Entered: 06/24/2003)
06/23/2003	41	LETTER addressed to Judge Berman from AUSA Lauren Goldberg/Marc L. Mukasey, dated 6/10/03, filed by USA as to James Duque, William Saenz Duque, Hector Carvajal, Hector Ruiz Re: submitted in regard to the portions of Hector Carvajal's guilty plea allocation which defense counsel seeks to admit in addition to those offered by the Govt. (bw) (Entered: 06/24/2003)
06/23/2003	42	LETTER addressed to Judge Berman from AUSA Lauren Goldberg/Marc L. Mukasey, dated 6/12/03, filed by USA as to James Duque, William Saenz Duque, Hector Carvajal, Hector Ruiz Re: submitted to preclude defense counsel from raising several issues which the Govt believe are improper under federal law. (bw) (Entered: 06/24/2003)
06/23/2003	43	LETTER addressed to Judge Berman from AUSA Lauren Goldberg/Marc L. Mukasey, dated 6/13/03, filed by USA as to deft James Duque Re: submitted in opposition to deft James Duque's motion to admit in evidence the Aruban surveillance report describing the events observed by law enforcement officers on September 14 and September 15, 2002. (bw) (Entered: 06/24/2003)
06/23/2003	44	LETTER addressed to Judge Berman from AUSA Lauren Goldberg/Marc Mukasey, dated 6/14/03, filed by USA as to James Duque, William Saenz Duque, Hector Carvajal, Hector Ruiz Re: submitted this motion in limine to admit, during its rebuttal case, statements made by deft William Duque during proffer sessions he had with the Govt. (bw) (Entered: 06/24/2003)
06/23/2003	45	LETTER addressed to Judge Berman from AUSA Lauren

		Goldberg/Marc L. Mukasey, dated 6/15/03, filed by USA as to James Duque, William Saenz Duque, Hector Carvajal, Hector Ruiz Re: submitted to address three outstanding issues: (1) deft James Duque's attempt to offer in evidence an Order issued by an Aruban Magistrate Judge in connection with the 9/16/02 arrest of James Duque in Aruba; (2) defts' motion to admit certain portions of the guilty plea of Hector Carvajal; and (3) deft William Duque's request to modify the jury charge regarding Count Two, the conspiracy to import narcotics into the U.S. (bw) (Entered: 06/24/2003)
06/23/2003	46	LETTER addressed to Judge Berman from AUSA Lauren Goldberg/Marc L. Mukasey, dated 6/16/03, filed by USA as to James Duque, William Saenz Duque, Hector Carvajal, Hector Ruiz Re: submitted in further support of the Govt's in limine motion to admit proffer statements by William Duque that are inconsistent with statements made by defense counsel during his opening statement, and in opposition to deft James Duque's motion to admit proffer statements made by William Duque exculpating James Duque. (bw) (Entered: 06/24/2003)
06/23/2003	47	MEMORANDUM OF LAW by James Duque regarding the admissibility of the Aruban surveillance report. (bw) (Entered: 06/24/2003)
06/25/2003	48	ORDER as to James Duque, William Saenz Duque, Hector Carvajal, It is hereby ORDERED that the US Marshals and the Bureau of Prisons permit the above named defendants , to change from prison issue uniform to civilian clothes as provided before being produced for each trial day in this matter (by 9:15am) (Signed by Judge Richard M. Berman); (jw) (Entered: 06/25/2003)
06/26/2003	49	ORDER as to James Duque, William Saenz Duque, Hector Ruiz. Defense counsel have made motions on the record pursuant to F.R.Cr.P. 29 at the close of the Govt case and at the close of all the evidence. At the time, the Court reserved decision pursuant to F.R.Cr.P. 29(b) but is now intending to rule. Counsel may make (brief) written submissions to the Court by 7/3/03 (noon) for the Court's consideration prior to issuing its ruling. (Signed on 6/26/03 by Judge Richard M. Berman). [microfilm 6/26/03 3pm] (bw) (Entered: 06/30/2003)
07/01/2003	50	PRELIMINARY ORDER of Forfeiture as to William Saenz Duque, Hector Ruiz. The Clerk is hereby directed to send copies of this Order to all counsel of record and to the U.S. Marshal, S.D.N.Y. (Signed on 6/30/03 by Judge Richard M. Berman). [microfilm 7/2/03 9am]; The Clerk's Office Has Sent Copy to: 1) Michael H. Sporn, Esq., 299 Broadway, NY NY 10007, certified mail #7002-0860-0005-5325-2872; 2) Alex Eisemann, Esq., 282 Katonah Ave. Suite 244, Katonah NY 10536, certified mail #7002-0860-0005-5325-2865; 3) U.S. Marshal, by Inter-office mail. (bw) Modified on 07/02/2003 (Entered: 07/02/2003)
07/03/2003	51	TRANSCRIPT of record of proceedings as to William Saenz Duque for dates of May 20, 2003, before Judge Richard M. Berman . (dt) (Entered: 07/11/2003)

07/03/2003	52	TRANSCRIPT of record of proceedings as to William Saenz Duque for dates of May 20, 2003, before Judge Richard M. Berman . (dt) (Entered: 07/11/2003)
07/03/2003	53	TRANSCRIPT of record of proceedings as to Hector Carvajal for dates of March 3, 2003, before Judge Richard M. Berman . (dt) (Entered: 07/14/2003)
07/18/2003		Sentencing held: Hector Carvajal (3) count(s) 1. (bw) (Entered: 07/22/2003)
07/18/2003		DISMISSAL of Count(s) on Government Motion as to Hector Carvajal. Counts Dismissed: Hector Carvajal (3) count(s) 2. (bw) (Entered: 07/22/2003)
07/18/2003	54	FILED JUDGMENT in a Criminal Case. Defendant's Attorney: Carlos Perez Olivo. AUSA: Marc Mukasey. Defendant Hector Carvajal (3) pleaded guilty to count(s) 1. Count(s) 2 is dismissed on the motion of the United States. The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984. It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.; The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total of 120 months. The court makes the following recommendations to the Bureau of Prisons: The Court recommends that the defendant serve his sentence at a facility in the New York City area (preferaly Fort Dix), and that he participate in counseling and/or treatment if he meets BOP eligible criteria.; The defendant is remanded to the custody of the United States Marshal.; Upon release from imprisonment, the defendant shall be on superivsed release for a term of 5 years. The defendant shall not possess a firearm as defined in 18 U.S.C. Section 921. Additional Supervised Release Terms (p.4 of judgment); The defendant shall pay an assessment of \$100.00 in full immediately.; Judgment and Commitment issued to U.S. Marshal. (Signed by Judge Richard M. Berman). [microfilm 7/22/03 12pm] Docketed as a judgment #03, 1504 on 7/23/03. (bw) Modified on 07/25/2003 (Entered: 07/22/2003)
07/21/2003	55	TRANSCRIPT of record of proceedings as to James Duque, William Saenz Duque, Hector Ruiz for dates of June 11,12,13,16,17,18, 2003, before Judge Richard M. Berman . (pr) (Entered: 08/05/2003)
07/21/2003	56	TRANSCRIPT of record of proceedings as to James Duque, William Saenz Duque, Hector Ruiz for dates of June 17,18,19,20,23, 2003, before Judge Richard M. Berman . (pr) (Entered: 08/05/2003)
07/25/2003	66	Judgment Returned Executed as to Hector Carvajal ; on 10/16/03 (ja) (Entered: 11/18/2003)
08/08/2003	57	MOTION by William Saenz Duque for an Order directing a judgment of acquittal, pursuant to Rule 29(c) of the F.R.Cr.P.; or in the alternative, for

		a new trial, pursuant to Rule 33(a) of the F.R.Cr.P. Return Date 9/29/03 at 10:30 a.m. (bw) (Entered: 08/11/2003)
08/08/2003	58	NOTICE of Publication by USA as to William Saenz Duque and Hector Ruiz (ja) (Entered: 08/19/2003)
08/22/2003	59	Filed Memo-Endorsement on letter: by Hector Ruiz , from Alexander E. Eisemann, Dated August 20, 2003, addressed to: Judge Berman Re: Reschedule Briefing, reset scheduling order deadlines: Response to motion deadline 8/29/03 for USA ; Reply to response to motion deadline 12:00 9/5/03 for Hector Ruiz ; Judge's Decision: Application granted: 8/22/03 noon is final. Govt response date is extended to 8/29/03 with respect to any (and all) pending motions in this case. Any (and all) replies from Defts are due by 9/5/03 at noon. SO ORDERED , (Signed by Judge Richard M. Berman); (jw) (Entered: 08/28/2003)
09/02/2003	60	Filed Memo-Endorsement on letter: addressed to Judge Berman from Attorney B. Alan Seidler, dated 8/27/03, filed by deft Hector Ruiz. Mr. Seidler requests an approximate 60 day adjournment of sentencing; JUDGE ENDORSED - Adjournment to 11/14/03 at 2:30 p.m. granted. Written defense submissions due by 10/17/03. (Signed on 8/29/03 by Judge Richard M. Berman). [microfilm 9/2/03 3pm] (bw) (Entered: 09/03/2003)
09/04/2003	61	NOTICE of Appearance for Hector Ruiz by Attorney B. Alan Seidler. (bw) (Entered: 09/05/2003)
09/15/2003	62	TRANSCRIPT of record of proceedings as to Hector Carvajal for dates of 7/18/03, before Judge Richard M. Berman . (df) (Entered: 09/15/2003)
09/26/2003	63	Filed Memo-Endorsement on letter: by USA as to William Saenz Duque, from AUSAs Lauren Goldberg/Marc L. Mukasey, Dated 6/15/03, addressed to: Judge Berman Re: requesting an adjournment of sentence, reset Sentencing for 11:00 10/7/03 for William Saenz Duque...Judge memo-endorsed: Adjourned on consent to 10/7/03 at 11:00 p.m. Government response in writing to be served and filed and delivered to Chambers by 9/30/03. So ordered. (Signed by Judge Richard M. Berman); (ph) (Entered: 09/30/2003)
10/09/2003	64	Filed Memo-Endorsement on letter: addressed to Judge Berman from AUSA Lauren Goldberg, dated 10/8/03, filed by USA as to deft William Saenz Duque. The Govt requests that the sentencing of deft William Duque, which was previously scheduled for 10/7/03, be adjourned to the week of 10/20/03; JUDGE ENDORSED - It mystifies me why you would wait to 10/7 (and write on 10/8) to seek an adjournment of a 10/7 conference. It also violates the Court's local rules. You need to get it together going forward. (Signed on 10/9/03 by Judge Richard M. Berman). [microfilm 10/9/03 3pm] (bw) (Entered: 10/15/2003)
10/22/2003	65	Filed Memo-Endorsement on letter: addressed to Judge Berman from Attorney B. Alan Seidler, dated 10/17/03, filed by deft Hector Ruiz. Mr. Seidler requests a 45 day adjournment to file post trial motions; JUDGE ENDORSED - 30 Day Extension Granted. Mr. Eiseman to respond to

		this letter and Order in writing by 10/24/03. (Signed on 10/22/03 by Judge Richard M. Berman). [microfilm 10/22/03 3pm] (bw) (Entered: 10/24/2003)
10/30/2003		Status conference as to William Saenz Duque held before Judge Richard M. Berman. AUSA Marc Mukasey present; AUSA Lauren Goldberg present; Michael Sporn present with deft William Duque; Spanish Interpreter David Mintz; Court reporter Patricia Nilsen; Sentencing adjourned until 11/19/03 at 11:00. (bw) (Entered: 11/04/2003)
10/30/2003		ORAL ORDER as to William Saenz Duque . RESET Sentencing for 11:00 a.m. 11/19/03 for William Saenz Duque . (Entered by Judge Richard M. Berman) (bw) (Entered: 11/04/2003)
11/19/2003	68	Court Exhibit A, 11/19/03, as to William Saenz Duque. [received for docketing from Chambers] (bw) (Entered: 11/21/2003)
11/19/2003		Minute Entry for proceedings held before Judge Richard M. Berman :Sentencing held on 11/19/2003 for William Saenz Duque (2) Count 1s,2s. (bw) (Entered: 12/02/2003)
11/19/2003		DISMISSAL OF COUNTS on Government Motion as to William Saenz Duque (2) Count 1,2.(bw) (Entered: 12/02/2003)
11/20/2003	67	NOTICE OF APPEAL by William Saenz Duque ; from ; the Judgment not entered in this action as of Yet. Copies of notice of appeal mailed to Attorney(s) of Record: U.S. Attorneys Office and Court Reporters. (CJA). (dt) (Entered: 11/21/2003)
11/20/2003	69	JUDGMENT in a Criminal Case. Defendant's Attorney: Michael Sporn. AUSA: Marc Mukasey/Lauren Goldberg. Defendant William Saenz Duque (2) was found guilty on Count(s) 1s, 2s after a plea of not guilty. All open counts are dismissed on the motion of the United States. The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984. It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.; The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total of 168 MONTHS. The court makes the following recommendations to the Bureau of Prisons: The Court recommends to the Bureau of Prisons that the defendant term of imprisonment be served at a facility in the Miami Florida area.; The defendant is remanded to the custody of the United States Marshal.; Upon release from imprisonment, the defendant shall be on supervised release for a term of 5 Years. The defendant shall not possess a firearm as defined in 18 U.S.C. Section 921. Additional Supervised Release Terms (p.4 of judgment); The defendant shall pay an assessment of \$200.00 in full immediately. (Signed by Judge Richard M. Berman on 11/20/03). [microfilm 12/1/03 12pm] (bw) Modified on 12/11/2003 (ja,). Docketed as a Judgment #03,2535 on 12/5/03. (Entered: 12/02/2003)

11/21/2003		Notice of Appeal with copy of order/judgment and two copies of docket entries as to William Saenz Duque transmitted to USCA re: [67-1] appeal on 11/21/03. (dt) (Entered: 11/21/2003)
12/01/2003	76	Judgment Returned Executed for <u>69</u> Judgment as to William Saenz Duque on 1/6/04. Defendant committed to Coleman (med) at Coleman, FL. (bw,) (Entered: 02/02/2004)
12/12/2003		Minute Entry for proceedings held before Judge Richard M. Berman :Status Conference as to Hector Ruiz held on 12/12/2003. AUSA Mukasey and AUSA Goldberg present; Deft (custody) and defense atty Seidler; Spanish Interpreter Robert Van Norman Whitford; Court Reporter Tom Murray present; Court issues ruling on motions: motion for relief from statutory minimum denied; motion for minimal role adjustment denied; motion for downward departure denied; PSR to be corrected prior to sentencing; sentencing adjourned to 12/19/03 at 9:30 a.m. (bw,) (Entered: 12/24/2003)
12/12/2003		ORAL ORDER as to Hector Ruiz. Sentencing set for 12/19/2003 09:30 AM before Judge Richard M. Berman.(bw,) (Entered: 12/24/2003)
12/15/2003	70	ENDORSED LETTER as to William Saenz Duque addressed to Judge Berman from William S. Duque dated 11/28/03 re: requesting a court appointed lawyer for my appeal. Judge memo-endorsed: I am forwarding this letter to the Court of Appeals (2nd circ.), Clerk. Mr. Duque should feel free to contact the Clerk's office there as well: 40 Centre Street, NYC 10007 (16th Floor). SO ORDERED. (Signed by Judge Richard M. Berman on 12/12/03)(ph,) (Entered: 12/16/2003)
12/17/2003	71	ENDORSED LETTER addressed to Judge Berman from Attorney B. Alan Seidler, dated 12/16/03, filed by deft Hector Ruiz. Deft requests an adjournment of sentencing until after Christmas; JUDGE ENDORSED - Adjourned to 12/29/03 at noon. (Signed by Judge Richard M. Berman on 12/17/03). [microfilm 12/18/03 9am] (bw,) (Entered: 12/23/2003)
12/22/2003		USCA Case Number 03-1735 as to William Saenz Duque, assigned to <u>67</u> Notice of Appeal - Final Judgment filed by William Saenz Duque. (pr,) (Entered: 12/22/2003)
12/29/2003		Minute Entry for proceedings held before Judge Richard M. Berman :Sentencing held on 12/29/2003 for Hector Ruiz (4) Count 1s. (jw,) (Entered: 12/31/2003)
12/29/2003		DISMISSAL OF COUNTS on Government Motion as to Hector Ruiz (4) Count 1,2,2s.(jw,) (Entered: 12/31/2003)
12/29/2003	72	JUDGMENT as to Hector Ruiz (4), Count(s) 1, 2, 2s, All open counts are dismissed on the motion of the US; Found guilty to Count(s) 1s, Imprisonment of 121 Months. Supervised Release for a term of 5 Years. The Court makes the following recommendations to the Bureau of Prisons: The Court recommends to the Bureau of Prisons that the defendant be placed in a facility near NYC. Special Assessment of \$100 which is due in full immediately. (Signed by Judge Richard M. Berman

		on 12/29/03)(jw,) (Entered: 12/31/2003)
12/29/2003	73	FINAL ORDER OF FORFEITURE as to William Saenz Duque, Hector Ruiz. It is Ordered, Adjudged and Decreed that: 1. Pursuant to 21 U.S.C. Section 853(n)(7) the U.S.A. shall and is hereby deemed to have clear title to: (a) A 1997 Jeep Grand Cherokee Laredo, vehicle identification number 1J4GZ58Y6VC541596. 2. The U.S. Marshals Service shall take possession of the Subject Property and dispose of the same according to law, in accordance with 21 U.S.C. Section 853(h). The Clerk is hereby directed to send copies of this Order to all counsel of record and to the U.S. Marshal, S.D.N.Y. (Signed by Judge Richard M. Berman on 12/29/03). [microfilm 12/30/03 9am] (bw,) (Entered: 01/06/2004)
12/29/2003		Regarding doc.#73, as to William Saenz Duque, Hector Ruiz. The Clerk's Office Has Mailed Copy of the Final Order of Forfeiture to: 1) Alex Eisemann, Esq. (counsel for deft Hector Ruiz), 282 Katonah Ave., Suite 244, Katonah, N.Y. 10536; 2) Michael H. Sporn, Esq. (counsel for deft William Saenz Duque), 299 Broadway, N.Y., N.Y. 10007; 3) AUSA Bret Williams; and 4) U.S. Marshals by inter-office mail. (bw,) (Entered: 01/09/2004)
12/31/2003		Judgment entered in money judgment book as #03,2732 as to Hector Ruiz in the amount of \$ 100.00, re: <u>72</u> Judgment. (bw,) (Entered: 01/06/2004)
01/05/2004	80	Judgment Returned Executed for <u>72</u> Judgment, as to Hector Ruiz on 2/10/04. Defendant committed to FTD at Ft. Dix, NJ. (bw,) (Entered: 03/02/2004)
01/06/2004		Transmission of Notice of Appeal and Certified Copy of Docket Sheet as to Hector Ruiz to US Court of Appeals re: <u>74</u> Notice of Appeal - Final Judgment. (pr,) (Entered: 01/08/2004)
01/06/2004	74	NOTICE OF APPEAL by Hector Ruiz from <u>72</u> Judgment,. Copies of Notice of Appeal mailed to Attorney(s) of Record: US ATTORNEY, SDNY. **CJA**(pr,) (Entered: 01/08/2004)
01/06/2004		Transmission of Notice of Appeal and Certified Copy of Docket Sheet as to Hector Ruiz to US Court of Appeals re: <u>74</u> Notice of Appeal - Final Judgment. (pr,) (Entered: 01/08/2004)
01/13/2004	75	TRANSCRIPT of Proceedings as to William Saenz Duque held on 11/19/03 before Judge Richard M. Berman. (pr,) (Entered: 01/13/2004)
01/13/2004		USCA Appeal Fees received \$ 255.00, receipt number E 496428 as to Hector Ruiz on 1/13/04 re: <u>74</u> Notice of Appeal - Final Judgment filed by Hector Ruiz. (pr,) (Entered: 01/14/2004)
02/04/2004		USCA Case Number 03-1735 from the U.S.C.A. 2nd Cir. as to Hector Ruiz, assigned to <u>74</u> Notice of Appeal - Final Judgment filed by Hector Ruiz. (dt,) (Entered: 02/04/2004)
02/05/2004	77	TRANSCRIPT of Proceedings as to Hector Ruiz held on 12/12/03 before Judge Richard M. Berman. (rg,) (Entered: 02/05/2004)

02/10/2004	78	Appeal Record Sent to USCA (Index). Notice that the Original index to the record on Appeal as to Hector Ruiz re: <u>74</u> Notice of Appeal - Final Judgment USCA Case Number 03-1735, 3 Copies of the index, Certified Clerk Certificate and Certified Docket Sheet were transmitted to the U.S. Court of Appeals. (pr,) (Entered: 02/10/2004)
02/11/2004	79	NOTICE of Change of Address as to William Saenz Duque. New Address: Federal Correctional Complex - Coleman, P.O. Box 1032 - Unit A-2, Medium, Coleman, FL, 33521-1032. (ph,) (Entered: 02/19/2004)
03/22/2004	81	Appeal Record Sent to USCA (Index). Notice that the Original index to the record on Appeal as to William Saenz Duque re: <u>67</u> Notice of Appeal - Final Judgment USCA Case Number 03-1735, 3 Copies of the index, Certified Clerk Certificate and Certified Docket Sheet were transmitted to the U.S. Court of Appeals. (dt,) (Entered: 03/22/2004)
04/19/2004		Domestic Return Receipt & U.S. Postal Service Certified Mail Receipt: refer to doc.#50 as to William Saenz Duque, Hector Ruiz. (bw,) (Entered: 04/19/2004)
06/10/2004	82	TRANSCRIPT of Proceedings as to Hector Ruiz held on December 29, 2003, 2:45 p.m. before Judge Richard M. Berman. (dt,) (Entered: 06/10/2004)
06/10/2004	83	TRANSCRIPT of Proceedings as to William Saenz Duque, Hector Ruiz, James Duque held on March 21, 2003 before Judge Richard M. Berman. (dt,) (Entered: 06/10/2004)
06/17/2004	84	TRANSCRIPT of Proceedings as to William Saenz Duque, Hector Ruiz, James Duque held on 6/10/04 before Judge Richard M. Berman. (pa,) (Entered: 06/17/2004)
11/05/2004	85	TRANSCRIPT of Proceedings as to William Saenz Duque, Hector Ruiz, James Duque held on 6/10/03 before Judge Richard M. Berman. (Nocco, Joseph) (Entered: 11/05/2004)
03/15/2005	86	MANDATE of USCA (certified copy) as to William Saenz Duque, Hector Ruiz re: <u>67</u> Notice of Appeal - Final Judgment, <u>74</u> Notice of Appeal - Final Judgment; USCA Case Numbers 03-1735, 04-0262. Upon due consideration, it is hereby Ordered, Adjudged and Decreed that the judgment of the District Court be and it hereby is AFFIRMED. Without requiring alteration of either sentence, this case is REMANDED for reconsideration and further proceeding in light of U.S. v. Crosby, No. 03-1675, 2005 WL240916 (2d Cir. 2/2/05). See id. at *13-14. Roseann B. MacKechnie, Clerk USCA. Issued As Mandate: 3/15/05. (bw,) (Entered: 03/18/2005)
03/23/2005		Transmission of USCA Mandate/Order to the District Judge re: <u>86</u> USCA Mandate - Final Judgment Appeal,, (pr,) (Entered: 03/23/2005)
07/12/2005		Set/Reset Hearings as to Hector Ruiz: Pretrial Conference set for 8/18/2005 11:00 AM before Judge Richard M. Berman..(pr,) (Entered: 07/15/2005)

07/13/2005	88	ORDER as to Hector Ruiz, James Duque., This case has been remanded for further proceedings purs. to US-V-Crosby, 397 F. 3d 103 (2nd. Cir. 2005) Scheduling Conference set for 7/21/2005 04:00 PM, all parties are directed to appear before Judge Richard M. Berman.. (Signed by Judge Richard M. Berman on 7/6/05)(pr,) (Entered: 07/18/2005)
07/15/2005	87	ENDORSED LETTER as to Hector Ruiz addressed to Judge Berman from B. Alan Seidler dated 7/7/05 re: Adjournment of 7/21/05 conference.8/18/05 @ 11 AM.So Ordered. (Signed by Judge Richard M. Berman on 7/11/05)(pr,) (Entered: 07/15/2005)
08/24/2005		Minute Entry for proceedings held before Judge Richard M. Berman :Status Conference as to William Saenz Duque, Hector Ruiz held on 8/24/2005. AUSA Michael Farbiarz present; Defense counsel Seidler present; No appearance by Gail Jacobs; Deft Hector Ruiz not present; Deft William Saenz Duque not present; Court set submission schedule; Defense to submit by 9/30/05; Govt to respond by 10/14/05; Defense to reply by 10/21/05; Ruling scheduled for 10/31/05 at 11:00 a.m. (bw,) (Entered: 08/29/2005)
08/24/2005		ORAL ORDER as to William Saenz Duque, Hector Ruiz. Brief (by defense) due by 9/30/2005. Responses (by Govt) to Brief due by 10/14/2005. Reply (by defense) to Response to Brief due by 10/21/2005. Status Conference set for 10/31/2005 11:00 AM before Judge Richard M. Berman.(bw,) (Entered: 08/29/2005)
08/24/2005	99	CJA 20 as to William Saenz Duque: Appointment of Attorney Gail Jacobs for William Saenz Duque. (Signed by Judge Richard M. Berman on 11/22/05) The CJA Office has mailed the original to the attorney and sent a copy to the file.(ph,) (Entered: 11/23/2005)
09/30/2005	89	TRANSCRIPT of Proceedings as to Hector Carvajal, William Saenz Duque, Hector Ruiz, James Duque held on 8/28/2005 before Judge Richard M. Berman. (jar,) (Entered: 09/30/2005)
11/07/2005		Minute Entry for proceedings held before Judge Richard M. Berman :Status Conference as to William Saenz Duque, Hector Ruiz held on 11/7/2005. AUSA Lauren Goldberg present; Defense counsel Seidler present for deft Hector Ruiz; Defense counsel Jacobs present for deft William Saenz Duque; Court Reporter Cathy Simmons present; Conference held; Court denies re-sentencing on Crosby remand. (bw,) (Entered: 11/15/2005)
11/08/2005	90	ORDER as to William Saenz Duque. Effective 8/24/05, CJA atty Gail Jacobs is appointed as counsel for the above named defendant. (Signed by Judge Richard M. Berman on 11/7/05)(ja,) (Entered: 11/09/2005)
11/10/2005	91	Letter by William Saenz Duque addressed to Judge Berman from Attorney Michael H. Sporn (not signed) dated 9/23/03 re: submitted in connection with the sentencing proceeding presently scheduled for 9/26/03. (bw,) (Entered: 11/14/2005)
11/10/2005	92	Letter by William Saenz Duque addressed to Judge Berman from AUSAs

		Marc L. Mukasey/Lauren Goldberg dated 9/30/03 re: submitted in opposition to the downward departure motion of deft William Saenz Duque dated 9/23/03, and in support of the Govt's request that the deft receive a two-point adjustment pursuant to U.S.S.G. Section 3C1.1 for his perjurious trial testimony. (bw,) (Entered: 11/14/2005)
11/10/2005	93	Letter by Hector Ruiz addressed to Judge Berman from B. Alan Seidler dated 11/14/03 re: submitted to object to the following statements set forth in the Presentence Report. (bw,) (Entered: 11/14/2005)
11/10/2005	94	Letter by USA as to Hector Ruiz addressed to Judge Berman from AUSAs Marc L. Mukasey/Lauren Goldberg dated 11/25/03 re: submitted in opposition to the sentencing letter of deft Hector Ruiz, dated 11/14/03. (bw,) (Entered: 11/14/2005)
11/10/2005	95	Letter by Hector Ruiz addressed to Judge Berman from Attorney B. Alan Seidler dated 9/30/05 re: submitted in connection with re-sentencing. (bw,) (Entered: 11/14/2005)
11/10/2005	96	Letter by USA as to William Saenz Duque, Hector Ruiz addressed to Judge Berman from AUSA Lauren Goldberg dated 10/12/05 re: submitted in opposition to the application filed by defts William Duque and Hector Ruiz for re-sentencing in light of the fact that the Guidelines are no longer mandatory. (bw,) (Entered: 11/14/2005)
11/14/2005	97	MEMO ENDORSEMENT on Sentencing Memorandum, as to William Saenz Duque, submitted in connection with his case's remand by the United States Court of Appeals for the Second Circuit for "reconsideration and further proceedings in light of U.S. v. Crosby...". -- Judge endorsed: Government to respond by 10/14; Reply by 10/21. Conference on 10/31/05 @ 11:00 a.m. SO ORDERED. (Signed by Judge Richard M. Berman on 9/28/05)(ja,) (Entered: 11/15/2005)
11/15/2005	98	ORDER as to William Saenz Duque, Hector Ruiz. Dfts' applications for re-sentencing, pursuant to U.S. v. Crosby, 397 F.3d 103 (2d Cir. 2005), are denied for the reasons stated on the record on 11/7/05. See transcript of proceedings held on 11/7/05 for a complete record. (Signed by Judge Richard M. Berman on 11/14/05)(ja,) (Entered: 11/17/2005)
11/15/2005	103	NOTICE OF APPEAL by Hector Ruiz from <u>98</u> Order. Copies of Notice of Appeal mailed to Attorney(s) of Record: A.U.S.A. and Court Reporters. (tp,) (Entered: 12/13/2005)
11/15/2005		Appeal Remark as to Hector Ruiz re: <u>103</u> Notice of Appeal - Final Judgment. NO FEE, CJA. (tp,) (Entered: 12/13/2005)
11/22/2005	100	NOTICE OF APPEAL by William Saenz Duque from <u>98</u> Order,. Copies of Notice of Appeal mailed to Attorney(s) of Record: A.U.S.A and Court Reporters. (CJA attorney) (nd,) (Entered: 11/23/2005)
11/23/2005		Transmission of Notice of Appeal and Certified Copy of Docket Sheet as to William Saenz Duque to US Court of Appeals re: <u>100</u> Notice of Appeal - Final Judgment. (nd,) (Entered: 11/23/2005)

12/07/2005	<u>101</u>	ENDORSED LETTER as to Hector Ruiz, addressed to Judge Berman, from Hector Ruiz, the dft, dated 11/18/05 re: Section 2255 motion... request that my attorney, Mr. B. Alan Seidler, who was appointed by the 2nd Circuit Court of Appeals to represent me on direct appeal... -- Judge endorsed: Application denied without prejudice on this record, there is no showing that the criteria on Santiago v. Duarte or Hodge v. Police Offrs have been satisfied. See 1999 WL 118109 (SDNY March '99) and 802 F.2d 58 (2d Cir. 1986). SO ORDERED. (Signed by Judge Richard M. Berman on 12/7/05)(ja,) (Entered: 12/08/2005)
12/12/2005	102	TRANSCRIPT of Proceedings as to Hector Ruiz held on 11/7/2005 before Judge Richard M. Berman. (jar,) (Entered: 12/12/2005)
12/13/2005		Transmission of Notice of Appeal and Certified Copy of Docket Sheet as to Hector Ruiz to US Court of Appeals re: <u>103</u> Notice of Appeal - Final Judgment. (tp,) (Entered: 12/13/2005)
12/13/2005		USCA SCHEDULING ORDER as to William Saenz Duque related to <u>100</u> Notice of Appeal - Final Judgment filed by William Saenz Duque, USCA Case Number 05-6410-cr. Roseann B. MacKechnie, Clerk USCA. Certified: 12/13/05. Appeal Record due by 12/26/2005. (tp,) (Entered: 12/14/2005)
01/13/2006		USCA SCHEDULING ORDER as to William Saenz Duque, Hector Ruiz related to <u>103</u> Notice of Appeal - Final Judgment filed by Hector Ruiz,, <u>100</u> Notice of Appeal - Final Judgment filed by William Saenz Duque,, USCA Case Number 05-6410-cr. Roseann B. MacKechnie, Clerk USCA. Certified: 1/5/06. Defendant Brief due by 2/24/2006. Government Brief due by 3/27/2006. Appeal Record due by 1/25/2006. (dt,) (Entered: 01/19/2006)
01/24/2006	104	Appeal Record Sent to USCA (Index). Notice that the Original index to the record on Appeal as to Hector Ruiz re: <u>103</u> Notice of Appeal - Final Judgment USCA Case Number 05-6410-cr, 3 Copies of the index, Certified Clerk Certificate and Certified Docket Sheet were transmitted to the U.S. Court of Appeals. (nd,) (Entered: 01/24/2006)
09/28/2006	105	ORDER as to Hector Ruiz.... IV. Conclusion: For the foregoing reasons, Deft's application for appointment of counsel to file a Section 2255 motion is denied at this time. (Signed by Judge Richard M. Berman on 9/28/06)(bw,) (Entered: 09/28/2006)
09/28/2006	106	AFFIDAVIT of Hector Ruiz, by Hector Ruiz, in support of his application for the appointment of counsel for his @2255 application. [2255 Motion not filed] (ja,) (Entered: 09/29/2006)
06/28/2007	107	MANDATE of USCA (certified copy) as to Hector Ruiz, James Duque re: <u>103</u> Notice of Appeal - Final Judgment USCA Case Number 05cr6410-cr(L) 05-6831-cr(CON). Ordered, Adjudged and Decreed that the judgment of the District Court is AFFIRMED. O'Hagan Wolfe, Clerk USCA. Issued As Mandate: 6/26/07. (pr) (Entered: 07/03/2007)
10/26/2007		MOTION to Vacate under 28 U.S.C. 2255. Document filed by Hector

		Ruiz. (laq) Civil case 1:07-cv-9461 opened. (Entered: 10/26/2007)
11/19/2007	<u>108</u>	ORDER as to Hector Ruiz., as to Hector Ruiz; Petitioner Replies due by 2/8/2008. Government Responses due by 1/18/2008. ORDERED that the Clerk shall serve, by certified mail, a copy of this Order upon the petitioner. ORDERED, that the Clerk shall serve, by certified mail, a copy of this Order and the petition herein upon the United States Attorney's Office for the Southern District of New York; ORDERED, that respondent serve and file an answer to the petition by January 18, 2008; respondent shall address the merits of the petition and the satisfaction of any procedural prerequisites; and it is further ORDERED, that any reply by petitioner to respondent's submissions shall be filed and served by February 8, 2008. SO ORDERED. (Signed by Judge Theodore H. Katz on 11/19/07)(jw) (Entered: 11/19/2007)

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